

disposition of all or a portion of an appeal, the appellant shall withdraw all or the agreed upon portion of the appeal by letter to the Appeal Deciding Officer within 15 days of the agreement. When the appellant does not withdraw the appeal in writing, formal review and disposition of the appeal shall continue.

(2) When, as a result of the agreement reached at the informal disposition meeting, new information is received or changes to the original decision or environmental analysis are proposed, the Responsible Official must follow the procedures in FSH 1909.15, section 18, and §§ 215.3 and 215.4.

(3) When an appeal is not entirely resolved through informal disposition, formal review and disposition of the appeal shall continue (§ 215.18).

§ 215.18 Formal review and disposition procedures.

(a) *Scope of review.* The Appeal Deciding Officer shall complete a review based on the appeal record (§ 215.2) and the Appeal Reviewing Officer's recommendation (§ 215.19(b)).

(b) *Disposition.* The Appeal Deciding Officer shall issue either:

(1) Within 45 days following the end of the appeal filing period, a written appeal decision affirming or reversing the Responsible Official's decision, in whole or in part, and may include instructions for further action. When an appeal decision involves instructions concerning new information or changed circumstances, the Responsible Official must follow the procedures in FSH 1909.15, section 18; and §§ 215.3, 215.4, 215.10, and 215.11. A copy of the appeal decision shall be sent to the appellant, the Appeal Reviewing Officer, and the Responsible Official; or

(2) No sooner than 46 days nor later than 50 days following the end of the appeal filing period, written notification to the appellant that an appeal decision will not be issued and that the Responsible Official's decision constitutes the final administrative decision of the Department of Agriculture (§ 215.14(e)(2)). A copy shall be sent to the Responsible Official.

(c) The Appeal Deciding Officer shall not issue an appeal decision when 45 days have elapsed following the end of the appeal filing period.

(d) The Appeal Deciding Officer's appeal decision constitutes the final administrative determination of the Department of Agriculture.

§ 215.19 Appeal Deciding Officer's authority.

(a) *Procedural decisions.* The Appeal Deciding Officer makes all procedural determinations. Such determinations

are not subject to further administrative review.

(b) *Consolidation of appeal decisions.* In cases involving multiple appeals of a decision, the Appeal Deciding Officer may consolidate appeals and may issue one or more appeal decisions.

(c) *Multiple names.* (1) When an appeal lists multiple names, the Appeal Deciding Officer shall identify all qualified appellants (§ 215.12).

(2) The Appeal Deciding Officer has the discretion to appoint a representative from those listed on an appeal to act on behalf of all parties to that appeal.

(d) The Appeal Deciding Officer may issue an appeal decision different from the Appeal Reviewing Officer's recommendation.

§ 215.20 Appeal Reviewing Officer's responsibilities.

(a) *Designation.* The Appeal Reviewing Officer may be:

(1) designated by the Chief or designee, and shall be a line officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal, who has not participated in the initial decision and will not be responsible for implementation of the initial decision after the appeal is decided.

(2) or designated by the Secretary in the case of Chief's decisions.

(b) *Review and recommendation.* The Appeal Reviewing Officer shall review an appeal and make a written recommendation to the Appeal Deciding Officer on the disposition of the appeal. That recommendation shall be released only upon issuance of an appeal decision.

(c) *Multiple appeals.* In cases involving multiple appeals of a decision, the Appeal Reviewing Officer may consolidate appeals and issue one or more recommendations.

§ 215.21 Secretary's authority.

(a) Nothing in this part limits the Secretary of Agriculture's authority for making decisions subject to this part.

(b) When the Secretary of Agriculture or Under Secretary, Natural Resources and Environment, issues a decision for projects and activities implementing land and resource management plans, such decisions shall not be subject to the notice, comment, and appeal procedures of this part. A decision by the Secretary of Agriculture constitutes the final administrative decision of the Department of Agriculture.

§ 215.22 Judicial proceedings.

It is the position of the Department of Agriculture that any filing for federal

judicial review of a decision subject to appeal is premature and inappropriate unless the plaintiff has first sought to invoke and exhaust the appeal procedures in this part (7 U.S.C. 6901).

§ 215.23 Applicability and effective date.

(a) These procedures apply to all projects and activities for which notice is published after 30 days from date of publication of final rule in the **Federal Register**.

(b) Decisions for which legal notice is given (§ 215.5) on or prior to 30 days from date of publication of final rule in the **Federal Register** remain subject to the appeal procedures of 36 CFR part 215 in effect when the final rule is published

§ 215.24 Information collection requirements.

The rules of this subpart governing appeal of decisions regarding projects and activities implementing a land and resource management plan specify the information that appellants must provide in an appeal (§ 215.15). As such, these rules contain information collection requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596-_____.

Dated: December 11, 2002.

Dale N. Bosworth,
Chief, Forest Service.

[FR Doc. 02-31681 Filed 12-17-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 139-200307(b); FRL-7423-5]

Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Lawson Mardon Packaging

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a source-specific revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision allows Lawson Mardon Packaging, USA, Corporation to have an alternative compliance averaging period of 30 days instead of the 24-hour averaging period specified by Kentucky air quality regulations 59:210 and 59:212. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the

Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this direct final rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before January 17, 2003.

ADDRESSES: All comments should be addressed to: Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (404/562-9031 (phone) or notarianni.michele@epa.gov (e-mail).)

Copies of the Commonwealth's submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (Michele Notarianni, 404/562-9031, notarianni.michele@epa.gov.)

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601-1403. (502/573-3382).

FOR FURTHER INFORMATION CONTACT: Michele Notarianni at address listed above or 404/562-9031 (phone) or notarianni.michele@epa.gov (e-mail).

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: December 5, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH02

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Hawaii, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis for the proposed designations of critical habitat for 47 plant species from the island of Hawaii. The comment period for the proposed critical habitat designations originally closed on July 29, 2002. On August 26, 2002, we reopened the comment period and provided notice that the comment period would close on September 30, 2002. On September 24, 2002, we announced two public hearings and extended the comment period to allow all interested parties to submit oral or written comments on the proposal until November 30, 2002. We are now providing notice of another extension of the comment period to allow peer reviewers and all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Over a 10-year period, the draft economic analysis shows a range of total direct costs for both the plant species listings and critical habitat to be estimated at \$53.1 million to \$71.8 million and some of the indirect costs could be substantially larger. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in preparation of the final rule.

DATES: We will accept public comments until January 17, 2003.

ADDRESSES: Send your written comments and information to Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850-0001 or e-mail your comments to FW1PIE_Hawaii_Island_Crithab@r1.fws.gov. To obtain a copy of the draft economic analysis, send a written requests to the address listed above, call 808/541-3441, or visit the following Internet site: <http://pacificislands.fws.gov>. For further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Office, at the above address (telephone: 808/541-3441; facsimile: 808/541-3470).

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2002, we published in the **Federal Register** (67 FR 36968) a

proposed rule to propose critical habitat for 47 of the 58 plant species known historically from the island of Hawaii that are listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), known historically from the island of Hawaii.

A total of 58 species historically found on the island of Hawaii were listed as endangered or threatened species under the Act between 1991 and 1996. Some of these species may also occur on other Hawaiian islands. In previously published proposals, we proposed that critical habitat was prudent for 31 (*Achyranthes mutica*, *Adenophorus periens*, *Asplenium fragile* var. *insulare*, *Bonamia menziesii*, *Cenchrus agrimonoides*, *Clermontia lindseyana*, *Clermontia peleana*, *Colubrina oppositifolia*, *Ctenitis squamigera*, *Delissea undulata*, *Diellia erecta*, *Flueggea neowawraea*, *Gouania vitifolia*, *Hedyotis cookiana*, *Hedyotis coriacea*, *Hibiscus brackenridgei*, *Ischaemum byrone*, *Isodendron pyriformis*, *Mariscus fauriei*, *Mariscus pennatifolius*, *Phlegmariurus mannii*, *Phyllostegia parviflora*, *Plantago princeps*, *Portulaca sclerocarpa*, *Sesbania tomentosa*, *Silene lanceolata*, *Solanum incompletum*, *Spermolepis hawaiiensis*, *Tetramolopium arenarium*, *Vigna o-wahuensis*, and *Zanthoxylum hawaiiense*) of the 58 species reported from the island of Hawaii. No change is made to the 31 proposed prudency determinations in the May 28, 2002, proposed rule for plants from Hawaii. In addition, in the May 28, 2002, proposal we proposed that designation of critical habitat was not prudent for two species of loulou palm, *Pritchardia affinis* and *Pritchardia schattaueri*, because it would likely increase the threat from vandalism or collection of these species on the island of Hawaii. We also proposed that critical habitat designation was not prudent for two species, *Cyanea copelandii* ssp. *copelandii* and *Ochrosia kilaueaensis*, known only from the island of Hawaii, because these species have not been seen in the wild since 1957 and 1927, respectively, and no viable genetic material is known to exist. We further proposed that designation of critical habitat is prudent for 23 species (*Argyroxiphium kauense*, *Clermontia drepanomorpha*, *Clermontia pyralaria*, *Cyanea hamatiflora* ssp. *carlsonii*, *Cyanea platyphylla*, *Cyanea shipmanii*, *Cyanea stictophylla*, *Cyrtandra giffardii*, *Cyrtandra tintinnabula*, *Hibiscadelphus giffardianus*, *Hibiscadelphus hualalaiensis*, *Isodendron hosakae*, *Melicope zahlbruckneri*, *Neraudia ovata*, *Nothoecstrum breviflorum*,